

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5034 OF 2015

Satyajit Mohansingh Patil

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Pradip R. Patil, Advocate for the Petitioner.

Shri S. B. Joshi, A.G.P. for Respondent Nos. 1 and 2

The Respondent No. 3 is served.

**CORAM : S. V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATE : 21ST DECEMBER, 2018.

FINAL ORDER :

. The caste claim of the petitioner as belonging to Rajput Bhamta is invalidated. Aggrieved thereby present petition.

2. Mr. Patil, the learned advocate for the petitioner contends that, the petitioner belongs to Rajput Bhamta caste (N.T.). The Committee while invalidating the caste claim has ignored the relevant aspects of the matter. The validity has been granted in favour of Ashwini Vijaysing Patil, the cousin sister of the petitioner from paternal side. Same has not been considered by the Committee. According to the learned counsel said Ashwini belongs to same family. Many families were not writing word

Bhamta in the record, as the same was stigmatic. According to the learned counsel, even other blood relatives of the petitioner from paternal side namely Lineshwar Komalsing Nikumbh has been granted validity certificate on 26.06.2018. Said Lineshwar Nikumbh is paternal cousin of the petitioner. The learned counsel further submits that, when paternal cousins are granted validity certificates, then the petitioner is also entitled to be granted validity certificate. The learned counsel to buttress his submissions relies upon following judgments.

- I. Sayanna Vs. State reported in (2009) 10 SCC 268.
- II. Varsha Vs. State reported in 2006 (4) Mh. L. J. 676.
- III. Sanjaysing Vs. State WP No. 408/1987 decided on 24.07.1987.
- IV. Kavita Vs. State WP. No. 3267/2011 decided on 06.09.2011.
- V. Apoorva Vs. Divisional Caste Scrutiny reported in 2011(2) Bom. C. R. 824.
- VI. Nilima Sardarsing Chavan Vs. State of Maharashtra and others reported in 2015(2) Mh. L. J. 257.

3. The learned counsel further submits that, the Committee has to apply its mind to all the documents and cannot brush aside validity granted to the near relatives only on the ground that same is of distant cousin. The learned counsel relies on the judgment of the Apex Court in a case of **Gayatri Laxmi Vs. State** reported in (1996) 3 SCC 685. The learned counsel

further submits that, the Committee has not found any fraud or misrepresentation on the part of the petitioner. In view of that, the benefit obtained by the petitioner has to be protected. The learned counsel relies on the judgment of the Full Bench of this Court in a case of Arun Vishwanath Sonone Vs. State of Maharashtra and others reported in 2015 (1) *Mh. L. J.* 457.

4. The learned Assistant Government Pleader for respondent Nos. 1 and 2 supports the judgment of the Committee and submits that, the original record of the petitioner is against the petitioner. The school record of the petitioner, his father records caste as Rajput and not Rajput Bhamta. Caste Rajput is not included in N. T.

5. We have considered the submissions canvassed by the learned counsel for respective parties and also gone through the judgment of the Committee and the record.

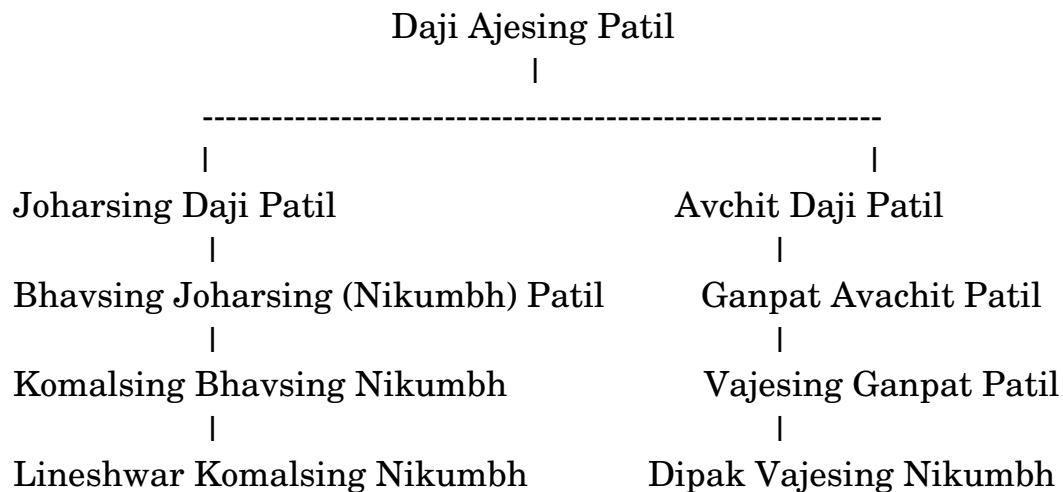
6. The validity issued to the near relatives certainly will have probative value. However, it will have to be seen as to what evidence is considered while granting validity to the paternal cousins. The judgment relied by the learned counsel for the petitioner in the case of Arun Vishwanath Sonone Vs. State of Maharashtra and others (supra) is misplaced. The said judgment impliedly stands overruled in view of the subsequent

judgment of the Apex Court in a case of **Food Corporation of India Vs. Jagdish Baliram Bahira** reported in ***AIR 2017 SC 3271***.

7. The Apex Court has held that once claim is invalidated, all benefits obtained by the candidate pursuant to the reservation are to be withdrawn.

8. Perusal of the judgments and documents placed on record, it appears that, the petitioner was admitted in Saint Aloysiyas High School, Yawal Road, Bhusawal on 06.06.1995. In the school record of the petitioner caste is recorded as Hindu Rajput. The father of the petitioner namely Mohansing was admitted in Kai. Sunderbhai Sitaram Malpure Secondary School, Lohtar, Tq. Pachora, Dist. Jalgaon on 12.06.1967. In the school record his caste is recorded as Rajput. The petitioner, his father profess that they belong to Rajput and not Rajput Bhamta caste. It is not made clear by the petitioner whether the documentary evidence in the nature of the school record of the petitioner, his father was produced in the proceeding while granting validity to the paternal cousin Ashwini relied by the petitioner.

9. We have gone through the record produced by the learned A. G. P. in respect of validity proceedings of Lineshwar Patil. The genealogy submitted by Lineshwar in his proceedings is as under :



10. While submitting the genealogy in the proceedings of Lineshwar, nowhere the name of the petitioner and his father appears to have been shown, probably because school record of the petitioner and his father was contrary. In the said proceedings, we have also gone through the school record of the grandfather of the petitioner Bhavsing. The school record of Bhavsing is dated 24th August, 1939. Said Bhavsing had taken admission in Zilla Parishad Primary School Nachankhed. In the said school record of the year 1939, the caste is recorded as Rajput. This would show that the grandfather of the petitioner, father of the petitioner and the petitioner right since 1939 were considering themselves to belong to Rajput caste and not Rajput Bhamta (N.T.). The validity granted in favour of the Lineshwar would not be of any benefit to the petitioner, as the school record of the petitioner and his father was suppressed while obtaining validity by Lineshwar.

11. We do not have the record and the evidence submitted while obtaining the validity certificate of Ashwini Vijaysing Patil, who is said to be cousin sister of the petitioner. The Committee has observed that, said cousin sister is separated by three generations. However, in the said proceeding, whether the record of the petitioner and his father was produced is not known. If the record of the petitioner was suppressed in the validity proceedings of Ashwini, then validity granted to Ashwini would not be of any benefit to the petitioner.

12. In fact, on the basis of the documents produced by the petitioner, it cannot be said that the petitioner belongs to Rajput Bhamta caste (N.T.). So also validity certificate in favour of Lineshwar would not be of any benefit to the petitioner, as the record of the petitioner and his father was suppressed in the said proceedings.

13. As the record of the validity proceedings of Ashwini Vijaysing Patil is not before us, we cannot conclude about the record of the petitioner and his father being produced in the said proceedings. It is only for this limited purpose, we relegate the matter back before the Committee. If the evidence of the petitioner and his father was suppressed in the validity proceedings of Ashwini, then the validity issued in favour of Ashwini would not be of any benefit to the petitioner. The Committee shall consider this aspect and decide the proceedings

and pass fresh orders in view of the observations made supra.

14. It is only on this ground the impugned judgment is set aside and the matter is remanded back before the Committee. The petitioner shall appear before the Committee on 07.01.2019. The Committee shall decide the proceedings after getting record of Ashwini on whose validity the petitioner relies and pass orders afresh within a period of four (04) months from the date of appearance of the petitioner.

15. In the light of above, writ petition is disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 18